

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI**

In Re) Case No. 22-43998-659-13
) Ch. 13
ANNA & ROBERT FRANKLIN,)
)
Debtor(s)) MOTION TO DISMISS
)
) Response due: March 16, 2023
)

MOTION TO DISMISS FOR FAILURE TO FILE TAX RETURNS AND NOTICE

WARNING: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING, THE DATE OF WHICH WILL BE SENT TO YOU IF YOU FILE A RESPONSE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

COMES NOW the Missouri Department of Revenue, a Creditor herein, and states to the Court as follows:

1. Debtors filed this bankruptcy proceeding on December 27, 2022.
2. Debtor failed or refused to file tax returns for the following years: 2020 and 2021 (Robert ONLY). Any tax due for years 2020 and 2021 (Robert ONLY) is entitled to priority pursuant to 11 U.S.C § 507(a)(8).
3. These tax returns will provide the Missouri Department of Revenue with information necessary for the completion and filing of claims in this bankruptcy proceeding.
- 4 Debtor's failure to file the aforementioned tax returns constitutes an unreasonable delay which is prejudicial to the Missouri Department of Revenue and is grounds for dismissal under 11 U.S.C. § 1307(c)(1). Further, the court pursuant 11 U.S.C. § 105(a) is given power to issue any order necessary or appropriate to enforce or implement the provisions of Title 11 of the United States Code.

5. The continuation of the bankruptcy estate without the filing of the tax returns is not in the best interest of the creditors of this estate; is in violation of the laws of the State of Missouri; and would inequitably treat the State of Missouri by preventing it from receiving the payments to which it is entitled under the Bankruptcy Code.

6. Upon the filing of the above-mentioned tax returns or notarized affidavit stating sufficient cause for the non-filing of said returns, the Missouri Department of Revenue will withdraw this motion.

WHEREFORE, the Missouri Department of Revenue prays for an order dismissing Debtor's Chapter 13 proceeding, and for such other relief as the Court deems just and proper.

Andrew Bailey, Attorney General
State of Missouri

/s/ Susan L Lissant
Susan L Lissant, MO Bar #56970
Federal District Bar #: Exempt
Special Assistant Attorney General
Missouri Department of Revenue
General Counsel's Office
301 W. High Street, Room 670
P.O. Box 475
Jefferson City, MO 65105-0475
(573) 751-5531 FAX (573) 751-7232
E-mail: edmoecf@dor.mo.gov
Attorney for Department of Revenue

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed electronically with the United States Bankruptcy Court, and has been served by regular United States Mail Service, first class, postage fully pre-paid, addressed to the parties listed below on February 23, 2023.

Anna & Robert Franklin
11320 Larimore Rd.
St. Louis, MO 63138

/s/Susan L Lissant
Susan L Lissant